



Written by [Dave Bohon](#) on October 23, 2017

Federal Court Rules WWI Memorial “Unconstitutional”

A federal appeals court has ruled that a 92-year-old cross-shaped memorial to soldiers who perished in World War I represents an unconstitutional promotion of religious sentiment and must be removed.

The 40-foot-tall memorial in Bladensburg, Maryland, known locally as the “Peace Cross,” was erected in 1925 by the American Legion to memorialize the 49 soldiers from Prince George’s County who died in the “Great War.” In 1961, the American Legion turned over the monument and the land on which it is located to the state of Maryland. The site is now maintained by the Maryland-National Capital Park and Planning Commission.



In 2014, the atheist group American Humanist Association (AHA) filed suit to have the monument removed, charging that the memorial represents a violation of the U.S. Constitution’s First Amendment, which supposedly requires total separation of religion and government.

In November 2015, the U.S. District Court for the District of Maryland ruled in favor of the memorial, finding that despite its cross shape, its purpose was not primarily religious, and therefore was not in violation of the First Amendment’s “separation” clause.

But on October 18, a three-judge panel of the U.S. Court of Appeals for the 4th Circuit in Richmond, Virginia, ruled 2-1 that the memorial unacceptably endorses the Christian faith through the prominent display of a Latin-style cross.

“The Latin cross is the core symbol of Christianity,” wrote Judge Stephanie Thacker in the 33-page majority opinion. “And here, it is 40 feet tall; prominently displayed in the center of one of the busiest intersections in Prince George’s County, Maryland, and maintained with thousands of dollars in government funds.”

Thacker wrote that it was impossible to ignore the affiliation with Christianity by the American Legion. “The display aggrandizes the Latin cross in a manner that says to any reasonable observer that the Commission either places Christianity above other faiths, views being American and Christian as one in the same, or both,” she wrote.

In her majority opinion, Thacker also rejected the argument that removal of Maryland’s “Peace Cross” memorial would establish precedent for the removal of other religious-themed memorials on government-maintained sites, such as the crosses that line Arlington National Cemetery. “The crosses there are much smaller than the 40-foot tall monolith at issue here,” wrote Thacker. “And, significantly, Arlington National Cemetery displays diverse religious symbols, both as monuments and on individual headstones.”

Thacker emphasized, however, that “we are not deciding or passing judgment on the constitutionality of



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Arlington National Cemetery's display of Latin crosses. Rather, we are merely distinguishing the facts at hand from those displayed at other places of commemoration."

In his dissenting opinion, Chief Judge Roger Gregory wrote that the First Amendment "does not require the government 'to purge from the public sphere' any reference to religion." He added that the memorial "stands in witness to the VALOR, ENDURANCE, COURAGE, and DEVOTION of the forty-nine residents of Prince George's County, Maryland 'who lost their lives in the Great War for the liberty of the world. I cannot agree that a monument so conceived and dedicated and that bears such witness violates the letter or spirit of the very Constitution these heroes died to defend."

The AHA gloated over the ruling, with the group's executive director, Roy Speckhardt, declaring that "government war memorials should respect all veterans, not just those from one religious group. Religious neutrality is important in a pluralistic society like ours." He added that instead of a specifically Christian memorial, his atheist clan preferred "a universal monument that reflects the patriotic contributions of all our fallen heroes and heroines."

Kelly Shackelford of First Liberty Institute, the legal advocacy group representing the American Legion in the case, said that his group was working with the American Legion to decide on how to proceed with the case. "The American Legion's commitment to preserving the Bladensburg Memorial has been unwavering," he said. "Their determination is appropriately illustrated by President Woodrow Wilson's words engraved at the memorial's base: 'The right is more precious than the peace; we shall fight for the things we have always carried nearest to our hearts; to such a task we dedicate ourselves.'"

Shackelford added that "we are exploring all of our options on behalf of the American Legion, including an appeal directly to the U.S. Supreme Court."

Photo of Peace Cross: Ben Jacobson ([Kranar Drogin](#))



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